



Federal Communications Commission
Washington, D.C. 20554

July 6, 2010

Window to the World Communications, Inc.
c/o Margaret L. Miller
Barry S. Persh
Dow Lohnes PLLC
1200 New Hampshire Ave NW
Suite 800
Washington, DC 20036

DA 10-1263

**Re: Request for Waiver
WFMT(FM) Chicago, IL (FID No. 10801)**

Dear Ms. Miller and Mr. Persh:

This letter is in response to the Request for Waiver filed on June 8, 2010 by Window to the World Communications, Inc. ("WWCI"), licensee of commercial FM station WFMT, Chicago, IL.¹ WWCI seeks a waiver of the 2009 biennial filing requirement for the Ownership Report for Commercial Broadcast Stations (FCC Form 323). For the reasons discussed below, we deny WWCI's request for waiver.

Section 73.3615 of the Commission's rules requires each licensee of a commercial AM, FM, or TV broadcast station to file an ownership report, FCC Form 323, every two years.² The current deadline is July 8, 2010.³ WWCI argues that the Commission should waive the filing requirement for WWCI because it is a non-profit, non-stock entity that is managed by a self-perpetuating governing board comprised of officers and trustees.⁴ WWCI states that the filing requirement would be "unduly burdensome, inequitable, and contrary to the public interest."⁵ Specifically, WWCI objects to board members having to register for FCC Registration Numbers (FRNs), including disclosure of social security numbers, a requirement the Commission instituted beginning with the current filing.⁶ Instead, WWCI is requesting that the Commission allow it to file FCC Form 323-E, the ownership form used by noncommercial stations. Currently, FCC Form 323-E does not require filers to obtain social security number-based FRNs.

¹ See Letter from Margaret L. Miller and Barry S. Persh, Counsel for Window to the World Communications, Inc., to Marlene H. Dortch, Esq., Request for Waiver for Station WFMT(FM), Chicago, IL (June 8, 2010) ("Waiver Request"). WWCI also is the licensee of noncommercial station WTTW(TV), Chicago, IL.

² See 47 C.F.R. § 73.3615.

³ See Public Notice, Media Bureau Announces Revised Form 323 Will Be Available Online On April 9, 2010, and Sets New Filing Deadline of July 8, 2010, DA 10-613, (MB. rel. Apr. 8, 2010).

⁴ Waiver Request at 1.

⁵ *Id.*

⁶ *Id.* at 4.

The Commission may grant a waiver for good cause shown.⁷ A waiver is appropriate if (1) special circumstances warrant a deviation from the general rule, and (2) such deviation would better serve the public interest than would strict adherence to the rule.⁸ Generally, the Commission may grant a waiver of its rules in a particular case only if the relief requested would not undermine the policy objective of the rule in question, and would otherwise serve the public interest.⁹ WWCI has failed to demonstrate that good cause exists to waive the filing requirement.

We do not find that WWCI is a unique case warranting waiver of the rule because it is a non-profit licensee of a non-commercial television station, WTTW(TV), and a commercial station, WFMT(FM). We are aware of a number of other entities with similar commercial/noncommercial operations who are in the process of or have already completed filing Form 323 for their commercial stations. WWCI notes that it previously has filed FCC Form 323 for station WFMT(FM) without submitting a social security number. Given its long-standing practice of filing the form, we do not believe that requiring WWCI to continue to comply with the Commission's rules creates an undue hardship. Further, we fail to see how allowing WWCI to alternatively file Form 323-E would reduce its filing burden. Form 323-E requires licensees to list all members of its governing board, including individuals' names, addresses, citizenship, principal profession/occupation, by whom appointed or elected, and interests in other broadcast stations.¹⁰

WWCI's sole complaint with filing Form 323 appears to be that the form requires its board members to register for an FRN, which includes providing a social security number through the FCC's CORES system. However, the Commission already has provided a remedy for situations in which individual officers, directors, shareholders, or other attributable individual persons are unable, or unwilling, to obtain a social security number-based FRN.¹¹ Section 3(a) of Form 323 includes a feature that permits a filer to generate a "Special Use" FRN for use in completing the Form 323 reporting requirement. Therefore, WWCI may obtain a special use FRN for any and all board members who are unwilling to provide information necessary to obtain an FRN.

Finally, we believe that waiving the filing requirement for WWCI would undermine the purpose of the recent changes to the Form 323 and the new filing requirements. The Commission adopted changes to increase the accuracy and comprehensiveness of the minority and female ownership data collected.¹² We continue to believe that obtaining the most comprehensive ownership information will further our objectives for use and reliance on the data. Therefore, compliance with the rules would serve the public interest better than grant of a waiver in this case.

⁷ 47 C.F.R. § 1.3. See also *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969); *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1166 (D.C. Cir. 1990).

⁸ See *Northeast Cellular*, 897 F.2d at 1166.

⁹ *WAIT Radio*, 418 F.2d at 1157.

¹⁰ FCC Form 323-E, Question 7.

¹¹ Public Notice, Media Bureau Announces Online Availability of Revised Biennial Form 323, An Instructional Workshop on the Revised Form, and the Possibility of Obtaining a Special Use FRN for the Form, DA 09-2539 (MB, rel. Dec. 4, 2009)

¹² See *Promoting Diversification of Ownership in the Broadcasting Services*, Report and Order and Fourth Further Notice of Proposed Rulemaking, MB Docket No. 07-294, et al., 24 FCC Rcd 5896, 5902-03 ¶ 12 (2009).

Accordingly, IT IS ORDERED, that pursuant to authority delegated to the Media Bureau pursuant to Sections 0.204 and 0.283 of the Commission's rules, 47 C.F.R. §§ 0.204, 0.283, Window to the World Communications, Inc.'s Request for Waiver is hereby DENIED.

Sincerely,

William T. Lake
Chief, Media Bureau